

AMENDED IN ASSEMBLY JUNE 28, 2012

AMENDED IN ASSEMBLY JUNE 18, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE APRIL 16, 2012

## SENATE BILL

**No. 1122**

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### Introduced by Senator Rubio

February 17, 2012

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An act to *amend Section 399.20 of, and to add Chapter 7.6 (commencing with Section 2833) to Part 2 of Division 1 of Section 399.24 to, the Public Utilities Code, relating to energy.*

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1122, as amended, Rubio. Energy: renewable biomass and biogas projects.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. ~~Existing law, adopted prior to the enactment of the California Renewables Portfolio Standard Program, provides that until the commission completes an electric generation procurement methodology that values the environmental and diversity costs and benefits associated with various generation technologies, the commission shall direct that a specific portion of future electrical generating capacity needed for California be reserved or set aside for renewable resources. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires an~~

*electrical corporation to make the tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, as specified, until the electrical corporation meets its proportionate share of a statewide cap of 750 megawatts, as specified.*

~~This bill would make certain legislative findings and declarations regarding new and emerging small- and community-scale distributed renewable generation technologies. The bill would require the commission, by June 1, 2013, to direct electrical corporations, as defined, to collectively procure at least 250 megawatts of electrical generating capacity from small- and community-scale startup developers of biomass and biogas projects, as defined. The bill would authorize the commission to increase the 750 megawatt statewide cap in order to allocate 250 megawatts to startup developers of biomass and biogas projects fueled by specified sources of bioenergy. The bill would, among other things, require the commission, in implementing that the 250 megawatt procurement requirement, to direct each electrical corporation to develop standard contract terms and conditions, as specified, and to provide a streamlined contracting process for the above that procurement requirement. The bill would also require the commission, at least once a year, to solicit electricity from small- and community-scale startup developers of biomass or biogas projects through a competitive solicitation process for specified project application categories. The bill would authorize the commission to monitor that solicitation process, and if the commission determines the prices of a bid are not reasonable, suspend the bidding within that project application category.~~

~~Existing law authorizes the furnishing of utility services by publicly owned public utilities, which are subject to the control of their governing bodies.~~

~~This bill would specify that before June 1, 2013, each local publicly owned utility that sells electricity at retail to 75,000 or more customers is strongly encouraged to consider and adopt, if appropriate, a procurement target for small- and community-scale biomass and biogas projects.~~

*The bill would also require the commission to encourage gas and electrical corporations to develop and offer, by December 31, 2013, programs and services to facilitate the development of in-state biogas and to facilitate the conditioning and upgrading of biogas in order to enable biogas to be used for a broad range of purposes, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 399.20 of the Public Utilities Code is  
2     amended to read:

3     399.20. (a) It is the policy of this state and the intent of the  
4     Legislature to encourage electrical generation from eligible  
5     renewable energy resources.

6     (b) As used in this section, “electric generation facility” means  
7     an electric generation facility located within the service territory  
8     of, and developed to sell electricity to, an electrical corporation  
9     that meets all of the following criteria:

10    (1) Has an effective capacity of not more than three megawatts.

11    (2) Is interconnected and operates in parallel with the electrical  
12    transmission and distribution grid.

13    (3) Is strategically located and interconnected to the electrical  
14    transmission and distribution grid in a manner that optimizes the  
15    deliverability of electricity generated at the facility to load centers.

16    (4) Is an eligible renewable energy resource.

17    (c) Every electrical corporation shall file with the commission  
18    a standard tariff for electricity purchased from an electric  
19    generation facility. The commission may modify or adjust the  
20    requirements of this section for any electrical corporation with less  
21    than 100,000 service connections, as individual circumstances  
22    merit.

23    (d) (1) The tariff shall provide for payment for every  
24    kilowatthour of electricity purchased from an electric generation  
25    facility for a period of 10, 15, or 20 years, as authorized by the  
26    commission. The payment shall be the market price determined  
27    by the commission pursuant to paragraph (2) and shall include all  
28    current and anticipated environmental compliance costs, including,  
29    but not limited to, mitigation of emissions of greenhouse gases  
30    and air pollution offsets associated with the operation of new  
31    generating facilities in the local air pollution control or air quality  
32    management district where the electric generation facility is  
33    located.

34    (2) The commission shall establish a methodology to determine  
35    the market price of electricity for terms corresponding to the length

1 of contracts with an electric generation facility, in consideration  
2 of the following:

3 (A) The long-term market price of electricity for fixed price  
4 contracts, determined pursuant to an electrical corporation's general  
5 procurement activities as authorized by the commission.

6 (B) The long-term ownership, operating, and fixed-price fuel  
7 costs associated with fixed-price electricity from new generating  
8 facilities.

9 (C) The value of different electricity products including  
10 baseload, peaking, and as-available electricity.

11 (3) The commission may adjust the payment rate to reflect the  
12 value of every kilowatthour of electricity generated on a  
13 time-of-delivery basis.

14 (4) The commission shall ensure, with respect to rates and  
15 charges, that ratepayers that do not receive service pursuant to the  
16 tariff are indifferent to whether a ratepayer with an electric  
17 generation facility receives service pursuant to the tariff.

18 (e) An electrical corporation shall provide expedited  
19 interconnection procedures to an electric generation facility located  
20 on a distribution circuit that generates electricity at a time and in  
21 a manner so as to offset the peak demand on the distribution circuit,  
22 if the electrical corporation determines that the electric generation  
23 facility will not adversely affect the distribution grid. The  
24 commission shall consider and may establish a value for an electric  
25 generation facility located on a distribution circuit that generates  
26 electricity at a time and in a manner so as to offset the peak demand  
27 on the distribution circuit.

28 (f) (1) An electrical corporation shall make the tariff available  
29 to the owner or operator of an electric generation facility within  
30 the service territory of the electrical corporation, upon request, on  
31 a first-come-first-served basis, until the electrical corporation meets  
32 its proportionate share of a statewide cap of 750 megawatts  
33 cumulative rated generation capacity served under this section and  
34 Section 387.6. The proportionate share shall be calculated based  
35 on the ratio of the electrical corporation's peak demand compared  
36 to the total statewide peak demand.

37 (2) *By June 1, 2013, the commission shall direct the electrical*  
38 *corporations to collectively procure at least 250 megawatts of*  
39 *electrical generating capacity from startup developers of biomass*  
40 *and biogas projects. The commission may increase the 750*

1 megawatt statewide cap identified in paragraph (1) in order to  
2 allocate 250 megawatts to electric generation facilities fueled by  
3 the sources of bioenergy specified in subparagraph (B). The  
4 proportionate share shall be calculated based on the ratio of the  
5 electrical corporation's peak demand compared to the total  
6 statewide peak demand. In implementing this paragraph, the  
7 commission shall do all of the following:

8 (A) Allocate the 250 megawatts identified in this paragraph  
9 among the electrical corporations.

10 (B) Direct each electrical corporation to, at least once a year,  
11 solicit electricity from startup developers of biomass or biogas  
12 projects through a competitive solicitation process for each of the  
13 following project application categories:

14 (i) For dairy digester gas, 85 megawatts.

15 (ii) For biogas from wastewater treatment, 50 megawatts.

16 (iii) For agricultural biomass and biogas, 50 megawatts.

17 (iv) For biomass using byproducts of sustainable forest  
18 management, 30 megawatts.

19 (v) For landfill gas and organic waste diversion, 35 megawatts.

20 (C) Direct the electrical corporations to develop standard  
21 contract terms and conditions that reflect the operational  
22 characteristics of the projects, and to provide a streamlined  
23 contracting process.

24 (D) Select the offers that represent the least-cost, best-fit  
25 resources for the electrical corporation.

26 (E) Coordinate, to the maximum extent feasible, any incentive  
27 or subsidy programs for biogas and biomass with the solicitation  
28 requirement in subparagraph (B) in order to provide maximum  
29 benefits to ratepayers and to ensure that incentives are used to  
30 reduce contract prices.

31 (F) Ensure that electrical corporations give priority to resources  
32 that result in the most greenhouse gas reductions as part of their  
33 contract. As part of the solicitation process, the commission shall  
34 require the electrical corporations to evaluate the value of  
35 greenhouse gas reductions.

36 (G) Allocate a proportional share of costs to the electric service  
37 provider and community choice aggregator customers through  
38 nonbypassable charges.

1 (g) The electrical corporation may make the terms of the tariff  
2 available to owners and operators of an electric generation facility  
3 in the form of a standard contract subject to commission approval.

4 (h) Every kilowatthour of electricity purchased from an electric  
5 generation facility shall count toward meeting the electrical  
6 corporation's renewables portfolio standard annual procurement  
7 targets for purposes of paragraph (1) of subdivision (b) of Section  
8 399.15.

9 (i) The physical generating capacity of an electric generation  
10 facility shall count toward the electrical corporation's resource  
11 adequacy requirement for purposes of Section 380.

12 (j) (1) The commission shall establish performance standards  
13 for any electric generation facility that has a capacity greater than  
14 one megawatt to ensure that those facilities are constructed,  
15 operated, and maintained to generate the expected annual net  
16 production of electricity and do not impact system reliability.

17 (2) The commission may reduce the three megawatt capacity  
18 limitation of paragraph (1) of subdivision (b) if the commission  
19 finds that a reduced capacity limitation is necessary to maintain  
20 system reliability within that electrical corporation's service  
21 territory.

22 (k) (1) Any owner or operator of an electric generation facility  
23 that received ratepayer-funded incentives in accordance with  
24 Section 379.6 of this code, or with Section 25782 of the Public  
25 Resources Code, and participated in a net metering program  
26 pursuant to Sections 2827, 2827.9, and 2827.10 of this code prior  
27 to January 1, 2010, shall be eligible for a tariff or standard contract  
28 filed by an electrical corporation pursuant to this section.

29 (2) In establishing the tariffs or standard contracts pursuant to  
30 this section, the commission shall consider ratepayer-funded  
31 incentive payments previously received by the generation facility  
32 pursuant to Section 379.6 of this code or Section 25782 of the  
33 Public Resources Code. The commission shall require  
34 reimbursement of any funds received from these incentive  
35 programs to an electric generation facility, in order for that facility  
36 to be eligible for a tariff or standard contract filed by an electrical  
37 corporation pursuant to this section, unless the commission  
38 determines ratepayers have received sufficient value from the  
39 incentives provided to the facility based on how long the project

1 has been in operation and the amount of renewable electricity  
2 previously generated by the facility.

3 (3) A customer that receives service under a tariff or contract  
4 approved by the commission pursuant to this section is not eligible  
5 to participate in any net metering program.

6 (l) An owner or operator of an electric generation facility  
7 electing to receive service under a tariff or contract approved by  
8 the commission shall continue to receive service under the tariff  
9 or contract until either of the following occurs:

10 (1) The owner or operator of an electric generation facility no  
11 longer meets the eligibility requirements for receiving service  
12 pursuant to the tariff or contract.

13 (2) The period of service established by the commission pursuant  
14 to subdivision (d) is completed.

15 (m) Within 10 days of receipt of a request for a tariff pursuant  
16 to this section from an owner or operator of an electric generation  
17 facility, the electrical corporation that receives the request shall  
18 post a copy of the request on its Internet Web site. The information  
19 posted on the Internet Web site shall include the name of the city  
20 in which the facility is located, but information that is proprietary  
21 and confidential, including, but not limited to, address information  
22 beyond the name of the city in which the facility is located, shall  
23 be redacted.

24 (n) An electrical corporation may deny a tariff request pursuant  
25 to this section if the electrical corporation makes any of the  
26 following findings:

27 (1) The electric generation facility does not meet the  
28 requirements of this section.

29 (2) The transmission or distribution grid that would serve as the  
30 point of interconnection is inadequate.

31 (3) The electric generation facility does not meet all applicable  
32 state and local laws and building standards and utility  
33 interconnection requirements.

34 (4) The aggregate of all electric generating facilities on a  
35 distribution circuit would adversely impact utility operation and  
36 load restoration efforts of the distribution system.

37 (o) Upon receiving a notice of denial from an electrical  
38 corporation, the owner or operator of the electric generation facility  
39 denied a tariff pursuant to this section shall have the right to appeal  
40 that decision to the commission.

(p) In order to ensure the safety and reliability of electric generation facilities, the owner of an electric generation facility receiving a tariff pursuant to this section shall provide an inspection and maintenance report to the electrical corporation at least once every other year. The inspection and maintenance report shall be prepared at the owner's or operator's expense by a California-licensed contractor who is not the owner or operator of the electric generation facility. A California-licensed electrician shall perform the inspection of the electrical portion of the generation facility.

(q) The contract between the electric generation facility receiving the tariff and the electrical corporation shall contain provisions that ensure that construction of the electric generating facility complies with all applicable state and local laws and building standards, and utility interconnection requirements.

(r) (1) All construction and installation of facilities of the electrical corporation, including at the point of the output meter or at the transmission or distribution grid, shall be performed only by that electrical corporation.

(2) All interconnection facilities installed on the electrical corporation's side of the transfer point for electricity between the electrical corporation and the electrical conductors of the electric generation facility shall be owned, operated, and maintained only by the electrical corporation. The ownership, installation, operation, reading, and testing of revenue metering equipment for electric generating facilities shall only be performed by the electrical corporation.

SEC. 2. Section 399.24 is added to the Public Utilities Code, to read:

399.24. The commission shall encourage gas and electrical corporations to develop and offer, by December 31, 2013, programs and services to facilitate the development of in-state biogas and to facilitate the conditioning and upgrading of biogas in order to enable biogas to be used for a broad range of purposes, including injection into natural gas pipelines, use for onsite power generation, and use at compressed natural gas filling stations for alternative fuel vehicles.

SECTION 1. ~~Chapter 7.6 (commencing with Section 2833) is added to Part 2 of Division 1 of the Public Utilities Code, to read:~~



CHAPTER 7.6. RENEWABLE BIOMASS AND BIOGAS PROJECTS

2833. (a) The Legislature finds and declares the following:

(1) New and emerging small- and community-scale distributed renewable generation technologies can greatly reduce greenhouse gas pollution in California, while providing quantifiable benefits to California ratepayers and the environment, contributing to the state's renewable energy, air quality, and climate goals, and providing increased electric system reliability.

(2) Current commission procurement programs do not fully account for the benefits of methane and other emissions reductions that result from the utilization of low-emission biomass and biogas technologies from landfills and organic waste diversion, wastewater treatment plants, food and agricultural processing, animal husbandry facilities, byproducts of sustainable forest management and wildfire prevention, and farms.

(3) Resource diversity benefits California ratepayers in the long term by reducing both the price of electricity and the risks to the reliability of the electric system.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Electrical corporation" means an electrical corporation, as defined in Section 218, that furnishes electricity to more than 100,000 customers.

(2) "Small- and community-scale biogas or biomass projects" means electrical generation projects that are no larger than five megawatts, that were not operative before January 1, 2013, and that comply with the regulations of the air quality management or air pollution control district and all other applicable environmental compliance standards.

(c) By June 1, 2013, the commission shall direct the electrical corporations to collectively procure at least 250 megawatts of electrical generating capacity from small- and community-scale biomass and biogas projects.

(d) In implementing this section, the commission shall do all of the following:

(1) Allocate the 250 megawatts identified in subdivision (c) among the electrical corporations.

(2) Direct each electrical corporation to, at least once a year, solicit electricity from small- and community-scale biomass or

1 biogas projects through a competitive solicitation process for each  
2 of the following project application categories:

3 (A) For dairy digester gas, 85 megawatts.

4 (B) For biogas from wastewater treatment, 50 megawatts.

5 (C) For agricultural biomass and biogas, 50 megawatts.

6 (D) For biomass using byproducts of sustainable forest  
7 management, 30 megawatts.

8 (E) For landfill gas and organic waste diversion, 35 megawatts.

9 (3) Direct the electrical corporations to develop standard contract  
10 terms and conditions that reflect the operational characteristics of  
11 the projects, and to provide a streamlined contracting process.

12 (4) Select the offers that represent the least-cost, best-fit  
13 resources for the electrical corporation.

14 (5) Coordinate, to the maximum extent feasible, any incentive  
15 or subsidy programs for biogas and biomass with the solicitation  
16 requirement in paragraph (2) in order to provide maximum benefits  
17 to ratepayers and to ensure that incentives are used to reduce  
18 contract prices.

19 (6) Ensure that electrical corporations give priority to resources  
20 that result in the most greenhouse gas reductions as part of their  
21 contract. As part of the solicitation process, the commission shall  
22 require the electrical corporations to evaluate the value of  
23 greenhouse gas reductions.

24 (7) Allocate a proportional share of costs to the electric service  
25 provider and community choice aggregator customers through  
26 nonbypassable charges.

27 (e) During the bidding process in a solicitation pursuant to  
28 subdivision (d), the commission may monitor the bidding process  
29 in the solicitation, and, if the commission determines the prices of  
30 a bid are not reasonable, suspend the bidding within that project  
31 application category.

32 2834. — (a) The Legislature finds and declares all of the  
33 following:

34 (1) New and emerging community-scale distributed renewable  
35 generation technologies can greatly reduce greenhouse gas  
36 pollution in California, while providing quantifiable benefits to  
37 California ratepayers and the environment, contributing to the  
38 state's renewable energy, air quality, and climate goals, and  
39 providing increased electric system reliability.

1     ~~(2) The Energy Commission has acknowledged in its 2011~~  
2     ~~Integrated Energy Policy Report that “[i]ncreased bioenergy~~  
3     ~~production could provide the state with several economic,~~  
4     ~~environmental, and reliability benefits.”~~

5     ~~(3) Significant potential exists for the utilization of low-emission~~  
6     ~~biomass and biogas technologies from landfills and organic waste~~  
7     ~~diversion, wastewater treatment plants, food and agricultural~~  
8     ~~processing, animal husbandry facilities, byproducts of sustainable~~  
9     ~~forest management and wildfire prevention, and farms.~~

10    ~~(4) Resource diversity benefits California ratepayers in the long~~  
11    ~~term by reducing both the price of electricity and the risks to the~~  
12    ~~reliability of the electric system.~~

13    ~~(b) Before June 1, 2013, each local publicly owned utility that~~  
14    ~~sells electricity at retail to 75,000 or more customers is strongly~~  
15    ~~encouraged to consider and adopt, if appropriate, a procurement~~  
16    ~~target for small- and community-scale biomass and biogas projects.~~  
17    ~~To achieve that target, each local publicly owned utility shall set~~  
18    ~~an interim deadline of December 31, 2016, and a final deadline of~~  
19    ~~December 31, 2020.~~